

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

NEV ARAS

CASE NO. 2:22-CV-05617

VERSUS

JUDGE JAMES D. CAIN, JR.

SECURED RISK INSURANCE GROUP INC

MAGISTRATE JUDGE KAY

MEMORANDUM RULING

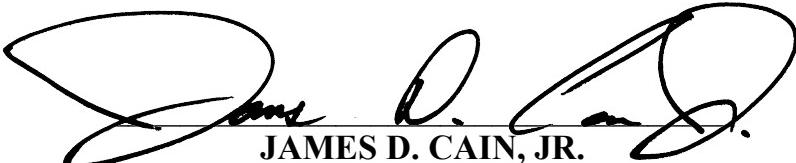
Before the Court is Defendant Crawford & Co.’s (“Crawford”) Rule 60(a) Motion to Correct Judgment (Doc. 26). Plaintiff Nev Aras opposes the motion. Doc. 34. Crawford has replied. Doc. 35.

On June 9, 2023, the Court granted Crawford’s unopposed Rule 12(b)(6) motion and dismissed all claims “without prejudice” against Crawford, a claims adjuster, because insureds have no cause of action against claims adjusters under Louisiana Revised Statutes sections 22:1892 and 22:1973, and Plaintiff failed to state a claim for fraud or intentional misrepresentation against Crawford, which is the exception that the Plaintiff could have asserted against Crawford. Crawford now moves the Court alter its June 9, 2020 Judgment to dismiss Plaintiff’s claims “with prejudice” because dismissals under Rule 12(b)(6) are merit adjudications. Though Plaintiff did not oppose Crawford’s previous Rule 12(b)(6) motion, he now argues that the Court properly dismissed his claims against Crawford “without prejudice” because further discovery could reveal that Crawford engaged in misrepresentation or fraud or assumed a duty to him as the insured.

Because Crawford's instant motion was filed within 28 days of the Court's previous entry of judgment, this motion will be treated as a Rule 59(e) motion to alter or amend a judgment. "The Rule gives a district court the chance 'to rectify its own mistakes in the period immediately following' its decision." *Banister v. Davis*, 207 L. Ed. 2d 58, 140 S. Ct. 1698, 1703 (2020) (quoting *White v. New Hampshire Dept. of Employment Security*, 455 U.S. 445, 450 (1982)). Under Rule 41(b), claims dismissed pursuant to Rule 12(b)(6) "operate[] as an adjudication upon the merits." *Box v. Occidental Chem. Corp.*, 264 F.3d 1142 (5th Cir. 2001). Accordingly, the Court's June 9, 2023 Judgment should have dismissed Plaintiff's claims against Crawford "with prejudice" rather than "without prejudice."

IT IS ORDERED that Crawford's motion to alter or amend a judgment (Doc. 26) will be granted, and all claims against it will be **DISMISSED WITH PREJUDICE**.

THUS DONE AND SIGNED in Chambers on this 11th day of July 2023.



JAMES D. CAIN, JR.
UNITED STATES DISTRICT JUDGE